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UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA
 SAN JOSE DIVISION

BAO CHRIS TU LUU, aka)	No. C 07-4493 RMW
BAO TU LUU, aka CHRIS LUU,)	
)	
Plaintiff,)	ANSWER
)	
v.)	
)	
PAUL CLEMENT, Acting Attorney General)	
of the United States;)	
MICHAEL CHERTOFF, Secretary,)	
Department of Homeland Security;)	
DAVID N. STILL, District Director,)	
San Francisco, U.S. Citizenship and Immigration)	
Services;)	
EMILIO GONZALEZ, Director, U.S.)	
Citizenship and Immigration Services;)	
ROBERT S. MUELLER, III, Director,)	
Federal Bureau of Investigation,)	
)	
Defendants.)	

Defendants hereby submit their answer to Plaintiff's Petition for Writ of Mandamus.

INTRODUCTION

1. Paragraph One consists of Plaintiff's characterization of this action for which no answer is necessary; however, to the extent a response is deemed to be required, the Defendants deny the allegations in this paragraph.

2. Defendants admit the allegations in Paragraph Two.

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3. Defendants deny the allegations in Paragraph Three.

4. Defendants admit the allegations in Paragraph four.

5. Paragraph Five consists of Plaintiff's allegations regarding venue, to which no responsive pleading is required; however, to the extent a responsive pleading is deemed necessary, Defendants deny the allegations in this paragraph.

FACTS

6. Defendants admit the allegations in Paragraph Six.

7. Defendants admit the allegations in Paragraph Seven.

8. Defendants admit the allegations in Paragraph Eight.

9. Defendants admit the allegations in Paragraph Nine.

10. Defendants admit the allegations in Paragraph Ten.

11. Defendants are without sufficient information to admit or deny the allegations in Paragraph Eleven.

CLAIMS

12. Defendants deny the allegations in Paragraph Twelve.

13. Defendants deny the allegations in Paragraph Thirteen.

14. Defendants deny the allegations in Paragraph Fourteen.

The remaining unnumbered paragraphs consists of Plaintiff's prayer for relief, to which no admission or denial is required; to the extent a responsive pleading is deemed to be required, Defendants deny this paragraph.

FIRST AFFIRMATIVE DEFENSE

The court lacks jurisdiction over the subject matter of this action.

SECOND AFFIRMATIVE DEFENSE

The Petition fails to state a claim against the Defendants upon which relief can be granted.

THIRD AFFIRMATIVE DEFENSE

No acts or omissions by the United States or its employees were the proximate cause of any injury or damages to the Plaintiff.

FOURTH AFFIRMATIVE DEFENSE

At all times alleged in the complaint, Defendants were acting with good faith, with justification, and pursuant to authority.

FIFTH AFFIRMATIVE DEFENSE

Defendants are processing the applications referred to in the Complaint to the extent possible at this time. Accordingly, no relief as prayed for is warranted.

SIXTH AFFIRMATIVE DEFENSE

Defendants' delay is not unreasonable as a matter of law.

WHEREFORE, Defendants pray for relief as follows:

That judgment be entered for Defendants and against Plaintiff, dismissing Plaintiff's Petition with prejudice; that Plaintiff takes nothing; and that the Court grant such further relief as it deems just and proper under the circumstances.

Dated: November 6, 2007

Respectfully submitted,

SCOTT N. SCHOOLS
United States Attorney

/s/
ILA C. DEISS
Assistant United States Attorney
Attorneys for Defendants